

**REMARKS**

Claims 1, 5, 6, 14 and 15 are pending in this application. By this Amendment, claims 1 and 6 are amended. No new matter is added. Claims 8, 10-13 and 16 are canceled without prejudice to, or disclaimer of, the subject matter recited in those claims. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 2, rejects claims 1, 5, 6, 8 and 10-16 under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is respectfully traversed.

Independent claims 1 and 6 are amended, and claim 8 is canceled, to obviate the rejection and to clarify the features recited in those claims.

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 5, 6, 14 and 15 under 35 U.S.C. §112, second paragraph, are respectfully requested.

The Office Action, in paragraph 5, rejects claims 1, 5, 6, 8, and 10-16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,292,724 to Apsell et al. (hereinafter "Apsell") in view of U.S. Patent No. 6,078,850 to Kane et al. (hereinafter "Kane") and further in view of U.S. Patent No. 5,835,376 to Smith et al. (hereinafter "Smith"). This rejection is respectfully traversed.

Apsell teaches a tracking system for a fleet of vehicles (col. 1, lines 13-23). Specifically, Apsell monitors equipment use and operating conditions (col. 1, lines 39-50). A satellite-based transponder system sends data from the equipment to a satellite (col. 1, lines 60-63, col. 2, lines 53-58, col. 3, lines 39-43).

Kane teaches a management system for a vehicle having a commodity storage region and traveling along a path having a plurality of geographically-distributed commodity replenishing stations, a goal of which is to calculate commodity replenishing schedules of the vehicle based on optimizing a number of factors (Abstract). More specifically, Kane

discloses a train refueling system that includes a controller on board the vehicle for storing a record of the current geographic locations of the fuel stations and the current fuel prices, and for calculating refueling schedules of the vehicle at the fueling stations based on an outfit put from each of the GPS data and the fuel sensor and a fuel price at at least some of the refueling stations (col. 2, lines 29-35).

Smith features a system for controlling vehicles to provide transportation services without need for human intervention (abstract). Smith further indicates that a variety of methods for obtaining and updating vehicle activity information are included, as are various applications for the disclosed system.

Claim 1 recites, among other features, wherein in a case that there are a plurality of construction machines to be refueled, the tie-up station side device performs processing to determine a refueling vehicle to be dispatched to the plurality of construction machines and an order in which the refueling vehicle is to be dispatched to each of the plurality of construction machines to refuel each of the plurality of construction machines in response to the request of refueling, based on the received positional information of each of the plurality of construction machines and management data from the tie-up station. Independent claim 6 recites similar features. Any permissible combination of Apsell, Kane and Smith cannot reasonably be considered to teach, or to have suggested, these combinations of features.

Specifically, there is nothing in any of Apsell, Kane or Smith that can reasonably be considered to correspond to any feature wherein in a case that there are a plurality of construction machines to be refueled, the tie up station side device performs processing as positively recited, among other features, in independent claims 1, 6 and 8. Specifically, although the Office Action asserts that the mobile refueling stations 2b of Kane allegedly correspond to the refueling vehicle recited in the pending claim, Kane clearly describes, in col. 4, at least at lines 1-6, that the mobile fueling station 2b is not a vehicle and cannot

reasonably be considered to correspond to a vehicle to be dispatched. There is no manner by which the mobile fueling station 2b of Kane can be dispatched. Kane simply teaches a plurality of mobile fueling stations to refuel a single train. Kane does not, therefore, teach a refueling vehicle determined to be dispatched to a plurality of construction machines in any manner that could be considered to correspond to the features positively recited in the pending claims. Further, Smith does not disclose, in any manner, an order being determined in which the refueling vehicle is to be dispatched to each of the plurality of construction machines. Therefore, given full construction to each of the positively recited claim terms in at least independent claims 1 and 6, no permissible combination of the applied references can reasonably be considered to have suggested the combination of all of these specifically recited features, with all of the details set forth in the claims.

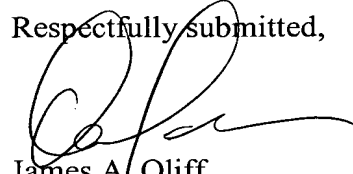
For at least the foregoing reasons, no permissible combination of the applied references can reasonably be considered to have suggested the combinations of all of the features positively recited in at least independent claims 1 and 6, for the reasons set forth above. Further, claims 5, 14 and 15 also would not have been suggested by this combination of applied references for at least the respective dependence of these claims directly or indirectly on allowable base claims, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 5, 6, 14 and 15 under 35 U.S.C. §103(a) as being unpatentable over Apsell in view of Kane, and further in view of Smith, are respectfully requested.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 5, 6, 14 and 15 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

Daniel A. Tanner, III  
Registration No. 54,734

JAO:DAT/mkg

Attachment:  
Petition for One-Month Extension of Time

Date: July 21, 2008

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

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